IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 28TH NOVEMBER 2006 / 7TH AGRAHAYANA 1928

RPFC.No. 243 of 2006()

AGAINST THE ORDER DATED 18.8.2006 IN M.C.NO.107/2005 OF THE FAMILY COURT, KOTTAYAM.

PETITIONER/COUNTER PETITIONER:

K. THANKAPPAN,
MUNDAMATTATHILAYA KARTHIKA VEEDU,
POTHANICKAD, KOTHAMANGALAM.

BY ADV. SRI.K.GOPALAKRISHNA KURUP

RESPONDENTS: PETITIONER/STATE:

1. K.N. SANTHAMMA,
KANJIRAMKOTTAYIL VEEDU,
KUDAMALOOR, KOTTAYAM.

2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

PUBLIC PROSECUTOR SRI.C.K.SURESH

THIS REV.PETITION(FAMILY COURT) HAVING COME UP FOR ADMISSION ON 28/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.T. SANKARAN, J.

R.P.(FC).NO. 243 OF 2006

Dated this the 28th day of November,2006

O R D E R

The first respondent filed M.C.No.107 of 2005 on the file of the Family Court, Kottayam at Ettumanoor, under Section 127 of the Code of Criminal Procedure claiming enhancement of maintenance. As per the order in M.C.No.2 of 1981, maintenance was awarded to the first respondent at the rate of Rs.100/- per month. Maintenance to the three children was also awarded as per that order. Later, the maintenance awarded to the first respondent was enhanced to Rs.300/- per month as per order in M.C.No.2 of 1992 and again enhanced to Rs.400/- per month as per the order dated 5.4.2000 in C.M.P.No.24 of 2000. One daughter of the first respondent died and the others are majors. The second daughter is married and she is residing with her husband in Delhi. The third daughter is

unmarried and the first respondent says that she is living with the third daughter. An amount of Rs.3,000/- per month was claimed as maintenance by the first respondent herein. It was pointed out that cost of living has increased and she requires amounts for meeting medical expenses. It was contended that the petitioner herein, who is the counter petitioner in the M.C., is a retired school teacher and that he is getting more than Rs.6,000/- per month as pension. In the petition, it was further stated that the petitioner herein is having properties and that he is getting a monthly income of Rs.15,000/-.

2. The petitioner herein filed objections in the maintenance petition. It was contended by him that he is getting only a pension of Rs.2,860/-. He is living with his widowed sister and he has to look after her. It was also contended that he is a heart patient and also an asthma patient and huge

amounts are necessary for his treatment.

3. Before the trial court, both parties adduced oral evidence. The trial court considered the evidence and held that the first respondent herein is entitled to get maintenance at the rate of Rs.700/- per month. The trial court considered the admission made by the petitioner herein that he is getting Rs.3,375/- per month as pension and also D.A. Though he denied that he is getting an amount of Rs.7,000/- per month as pension, there is an admission that he is getting Rs.3,375/- per month as pension and D.A. The trial court held that there are change of circumstances and that the maintenance is liable to be enhanced. Taking into account the relevant facts, the court below came to the conclusion that maintenance at the rate of Rs.700/- per month would be just and reasonable.

4. Heard the learned counsel for the

petitioner. The application, the counter statement and the oral evidence are made available for perusal. On a careful scrutiny of the pleadings and evidence, I am of the view that the court below was right in fixing the amount of maintenance at the rate of Rs.700/- per month. There is no error, illegality, irregularity or impropriety in the order passed by the court below. No grounds are made out for interference in Revision.

The Revision lacks merits and it is accordingly dismissed. However, taking into account the facts and circumstances of the case, one month's time is granted to the petitioner to pay the arrears of maintenance.

(K.T.SANKARAN)
Judge

ahz/

K.T.SANKARAN, J.

CRL.M.C.NO. OF

O R D E R

September, 2006